

APR 28 2014

JULIA C. [Signature] CLERK  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

UNITED STATES OF AMERICA

Case No. 7:10-cr-00072-1

v.

MEMORANDUM OPINION

DIEGO ALEGRIA SANCHEZ,  
Petitioner.

By: Hon. James C. Turk  
Senior United States District Judge

Petitioner Diego Alegria Sanchez, a federal inmate proceeding pro se, filed a motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255. Court records reveal that Petitioner previously filed a § 2255 motion, ECF no. 89, for the same conviction and sentence. Thus, Petitioner's current § 2255 motion is a second or subsequent one under § 2255(h). The court may consider a second or successive § 2255 motion from Petitioner only upon specific certification from the Fourth Circuit Court of Appeals that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted evidence of having obtained certification to file a second or successive § 2255 motion, the court must dismiss the § 2255 motion without prejudice. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

ENTER: This 28<sup>th</sup> day of April, 2014.

  
Senior United States District Judge